

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

IN RE:	:	CASE No. 11-40606
	:	
CHARLES DANIEL MCALLISTER,	:	CHAPTER 13
FRANCIS DIANE MCALLISTER,	:	
DEBTORS.	:	JUDGE BONAPFEL
	:	
<hr/>		
CHARLES DANIEL MCALLISTER,	:	CONTESTED MATTER
FRANCIS DIANE MCALLISTER,	:	
MOVANTS,	:	
	:	
V.	:	
	:	
CITIMORTGAGE, INC.,	:	
	:	
RESPONDENT.	:	

**OBJECTION TO CLAIM #7 OF CITIMORTGAGE, INC.**

COMES NOW, the debtor(s) ("Debtor"), files this Objection to Claim of CitiMortgage, Inc. ("Respondent"), and shows as follows:

**BACKGROUND AND FACTS**

1. Jurisdiction is proper under 28 U.S.C. §§ 157 and 1334. Venue is proper under 28 U.S.C. § 1409. This is a core proceeding under 28 U.S.C. § 157(b).
2. Debtor filed a petition for relief under Chapter 13 on February 28, 2011. Debtor confirmed a chapter 13 plan on April 26, 2012.
3. Debtor's attorney filed a proof of claim, designated claim #7 on the claim register, on behalf of Respondent after Respondent failed to file a claim prior to the bar date. Respondent has since filed its own claim, designated claim #8 on the claim register.
4. The confirmed plan provides for payments to Respondent on a secured claim for \$27,500, as more specifically described in the plan. The Chapter 13 Trustee has contacted Debtor's

attorney regarding the inability to administer the plan due to the two claims. Furthermore, the Chapter 13 Trustee has already distributed at least \$450.00 to Respondent on claim #7.

**RELIEF REQUESTED**

5. Debtor respectfully requests that the Court enter an order disallowing claim #7 as a duplicative claim and further order that the \$450.00 distributed on claim #7 be applied to claim #8.

**BASIS FOR RELIEF**

6. By application of Fed. R. Bankr. P. 3006, the parties are unable to withdraw claim #7 as a matter of course.

7. Parties in interest may object to the allowance of claims pursuant to 11 U.S.C. § 502 and Fed. R. Bankr. P. 3007.

8. Debtor objects to the allowance of claim #7, because it is duplicative of claim #8. Furthermore, Debtor moves the Court to order that any funds distributed on claim #7 be deemed as distributed on claim #8.

**WHEREFORE**, Debtor respectfully requests that the Court enter an Order sustaining this Objection to disallow claim #7 of CitiMortgage, Inc. as a duplicative claim, and further order that any funds distributed on claim #7 shall be deemed as distributed on claim #8.

Dated: May 2, 2012

PO Box 1304  
Dalton, GA 30722-1304  
(706) 226-5425

THE HURTT LAW FIRM, LLC  
Attorneys for Debtor

/s/ David W. Johnson  
David W. Johnson  
GA Bar 940310  
davidjohnson5@windstream.net

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**NOTICE OF REQUIREMENT OF RESPONSE**

**PLEASE TAKE NOTICE** that CHARLES DANIEL MCALLISTER and FRANCIS DIANE MCALLISTER, have filed an Objection to the above-referenced claim seeking an Order denying the Unsecured Claim of CITIMORTGAGE, INC.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the relief requested, or if you want the Court to consider your views, then on before June 5, 2012, you or your attorney must:

- (1) File with the Court a written response, explaining your positions and views as to why your claim should be allowed as filed. The written response must be filed at the following address:

Clerk, United States Bankruptcy Court  
Room 339, Federal Building  
600 East First Street  
Rome, GA 30161

If you mail your response to the Clerk for filing, you must mail it early enough so that the clerk will **actually receive** it on or before the date stated above.

- (2) Mail or deliver a copy of your written response to the Objector's attorney at the address stated below. You must attach a Certificate of Service to your written response stating when, how, and on whom (including addresses) you served the response.

If you or your attorney does not file a timely response, the court may decide that you do not oppose the relief sought, in which event the hearing scheduled below may be cancelled and the court may enter an order disallowing your claim as requested without further notice and without a hearing.

If you or your attorney files a timely response, then a hearing will be held in Courtroom 342, Federal Building, 600 East First Street, Rome, Georgia, at **10:00 a.m. on the 13th day of June, 2012.**

Dated: May 2, 2012

THE HURTT LAW FIRM, LLC  
Attorneys for Debtor

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(706) 226-5425

/s/ David W. Johnson

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**CERTIFICATE OF SERVICE**

I certify that I am over the age of eighteen and on this day have served a copy of the foregoing OBJECTION and NOTICE via first class mail with adequate postage affixed, as follows:

Chapter 13 Trustee  
Suite 2700, The Equitable Bldg.  
100 Peachtree St.  
Atlanta, GA 30303

Burr & Forman, LLP  
Attn: John Michael Kearns, Esq.  
171 Seventeenth St. NW, Ste. #1100  
Atlanta, GA 30363

Dated: May 2, 2012

PO Box 1304  
Dalton, GA 30722-1304  
(706) 226-5425

CitiMortgage, Inc.  
Attn: Sheila Washington  
P.O. Box 140609  
Irving, TX 75014-0609

CitiMortgage, Inc.  
4050 Regent Blvd.  
Irving, TX 75063

THE HURTT LAW FIRM, LLC  
Attorneys for Debtor

/s/ David W. Johnson

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